

### **REMARKS**

Claims 1-6, 9-12, 15-17, 27-29, 32-38, 40-47, 50, 52-53 were pending to the present application. By virtue of this response, Claim 12 has been cancelled, and Claims 1, 4, 5, 10, 11 and 50 amended. Amendment or cancellation of claims is not to be construed as dedication to the public of any of the subject matter of the previously presented claims. The Examiner is thanked for allowing most of the claims.

### **Claim Rejection Under 35 U.S.C. § 103**

Claims 1-3, 11, 50 and 53 stand rejected under 35 U.S.C. 103(a) as unpatentable over Dong (US 5,864,956) in view of Seki (US 6,430,823) and further in view of Claxton (US 5,394,616).

### **Allowable Subject Matter**

Claims 4-6 and 12 stand objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

In response, Claims 4 and 5 are each amended here to include the subject matter of base Claim 1 and are allowable. Claim 6 is dependent on Claim 5. Claim 11, amended here to include the limitations of allowable dependent Claim 12, is similarly allowable.

### **Rejected Claims**

Rejected independent Claim 1 has been amended here and it is respectfully submitted that as amended it distinguishes over the references, even in combination. The second clause in the body of Claim 1 as amended recites "one or more light emitting modules attached magnetically to the leveling platform,...; wherein at least one of the two sides of one of the light emitting modules bears on the reference surface to emit light oriented with respect to the reference surface." Amended Claim 1 more specifically recites the relevant structure and thereby clearly distinguishes over the references. In rejecting Claim 1 the Examiner stated in the Action in pertinent part at page

2, last paragraph “Dong discloses an apparatus having one or more light emitting modules detachable from each other...that allows for substantially parallel positioning on the reference surface...and allows substantially parallel positioning against the side of another light emitting modules, wherein each of the light emitting modules cooperates with the reference surface to provide oriented light.” Further, at page 7 of the Action, second paragraph, the Examiner stated “With respect to the intended uses as stated in claims 1, 10, 11 and 50: It has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations.”

As amended, Claim 1 does not recite intended uses, even if it did before, which is not conceded. Thus, rather than reciting “magnetically detachable” Claim 1 now says “attached magnetically.” Further, rather than reciting “cooperates with the reference surface to provide oriented light” Claim 1 in its final clause now says “at least one of the two sides of one of the light emitting modules bears on the reference surface to emit light oriented with respect to the reference surface.” It is respectfully submitted that no such structure is shown in the references, even in combination. The Examiner cited Claxton as showing a laser positioning device magnetically detachable by means of a magnetic material, referring to structure 63 in Claxton. However, it is pointed out that in Claxton the laser positioning device does not attach to a “reference surface,” but merely to whatever surface is available. Moreover in Claxton, the magnetic attachment is by means of structures 59, 62, 63 and 61, 62, 63 which each have discs 63 which extend out from the body of the leveling device 10. There is no particular provision of any sort of “parallel positioning on the reference surface” as recited in Claim 1 in Claxton. Moreover it is clear in Claxton that no light emitting module “bears on the reference surface” as also recited in Claim 1.

The Examiner cited Seki as having a leveling platform with a reference surface and light emitting modules. However, in Seki as pointed out in the previous amendment, the Seki base unit 4 is not a “reference surface” as recited in present Claim 1. Both Seki and Claxton disclose a self-standing unit, neither providing or suggesting any separate leveling platform. The Seki base unit 4

is integral to the light emitting module, see Seki column 7, lines 15-18, which state in part “According to the composition, the casing 2 is integrated into the unit 4 and supported.”

Moreover with regard to the magnetic attachability issue, the magnets in Claxton are not for coupling to a leveling platform, instead they are magnets for mounting to a surface such as a steel plate. See Claxton column 3, line 62 to column 4, line 6 and column 6, lines 22-38, pointing this out. Hence the magnets in Claxton are for coupling to a fixed structure, not a “leveling platform” as in Claim 1.

Hence for at least these three reasons Claim 1 as amended distinguishes over the references, even in combination, as do Claims 2-3 dependent on Claim 1.

The Examiner rejected independent Claim 10 citing the same combination of references. Claim 10 as amended recites in its final clause “wherein each magnetic fastener includes one or more magnets mounted to rotate in a recess in the respective side therein magnetically attaching to another such module with their respective sides in contact.” No such structure is shown in any of the references. The only reference with a magnetic attachment is Claxton, which does not use a magnetic attachment to attach to another module, but only instead to a support surface as pointed out above. Moreover, the magnets 63 in Claxton are not disclosed as rotatable or being “mounted to rotate in a recess” in the side of the module as recited in Claim 1. Instead they are in the feet 62 and 59 (Claxton Fig. 1) which extend out from the body of the device 10. There is no indication these magnets 63 would rotate.

The magnet rotation is advantageous for the reasons pointed out in the present specification at paragraph 50 and 51, which describe how in one embodiment the magnets float in a recess in each of the reference sides of the module, see paragraph 50. The process of magnetic coupling between adjacent modules is described in paragraph 51 where the magnets are allowed to rotate and roll within their recesses. As the reference side of the second module approaches that of the first module, the magnets in either of both of the modules rotate and slide around such that the modules become magnetically attracted to and attach to each other. The rotation of the magnets eliminates the need for any pre-determined north/south polarity installment of the magnets,

advantageously. Clearly nothing like this is even suggested in Claxton, which, of course, does not even address the problem of attaching one module to another, but instead uses the magnets merely to clamp on to a metal support surface. Hence Claim 10 distinguishes over the references for at least these reasons and is allowable.

Claim 50 was similarly rejected and has been amended somewhat similarly to Claim 10, so the first clause in the body of Claim 50 now recites “a magnetic fastener including at least one magnet recessed in the second of the sides and rotating relative to the second of the sides;”. As in Claim 10, this relates to the magnets being recessed and rotating and has the same advantages as pointed out above in conjunction with Claim 10, and similarly distinguishes over the references, thus rendering Claim 50 allowable.

Hence all of the independent claims are allowable or allowed and for at least this reason all claims dependent thereon are also allowable.

**CONCLUSION**

In view of the above, all pending claims in this application are believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket no. 549242002200.

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Respectfully submitted,

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